

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2460

Introduced by Assembly Member Ammiano

February 19, 2010

~~An act to amend Section 878 of the Penal Code, relating to criminal procedure. An act to add Section 11376.5 to the Health and Safety Code, relating to controlled substances.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2460, as amended, Ammiano. ~~Witnesses: appearance before trial court: written undertakings. Controlled substances: overdose: punishment.~~

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law generally provides punishment for the unauthorized use, possession, and sale of controlled substances.

This bill would provide that it shall not be a crime for any person who experiences a drug- or alcohol-related overdose who, in good faith seeks medical assistance, or any other person who, in good faith, seeks medical assistance for the person experiencing a drug- or alcohol-related overdose, to be under the influence of, or in possession of, or to furnish, deliver, or share a controlled substance, controlled substance analog, alcohol, or drug paraphernalia, under certain circumstances related to a drug- or alcohol-related overdose that prompted the seeking of medical assistance. The bill would provide that

its provisions shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs or alcohol for money, goods, or services, or laws prohibiting the forcible administration of drugs or alcohol against a person's will.

~~Existing law allows the magistrate or judge to require a material witness in a case to appear and testify and to require the witness to sign a written undertaking that he or she will appear and testify or forfeit \$500.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Drug overdose is the second leading cause of injury death*
4 *in the United States, behind only motor vehicle accidents and*
5 *ahead of firearms. California has the greatest number of overdose*
6 *deaths in the country per year. Moreover, drug and alcohol*
7 *overdose morbidity and mortality are not confined to adults but*
8 *also devastate California's youth.*

9 *(b) The State Department of Alcohol and Drug Programs*
10 *reported that there were 3,102 overdose deaths in 2002, the first*
11 *year the department began tracking overdose deaths in California.*
12 *By 2006, the number of overdose deaths had grown to 3,646.*

13 *(c) Many overdose fatalities occur because peers delay or forgo*
14 *calling 911 or seeking emergency assistance for fear of arrest or*
15 *police involvement, which researchers continually identify as the*
16 *most significant barrier to the ideal first response of calling*
17 *emergency services. Furthermore, if criminal punishment is*
18 *intended to deter drug abuse, it is clearly too late to deter such*
19 *abuse when a person is already suffering from an overdose.*

20 *(d) It is the intent of the Legislature to encourage a witness of*
21 *a drug- or alcohol-related overdose to call 911 or seek other*
22 *emergency assistance in a timely manner in order to save the life*
23 *of an overdose victim by establishing a state policy exempting drug*
24 *possession or drug paraphernalia possession from criminal*
25 *prosecution in situations involving medical emergencies.*

1 (e) *It is not the intent of the Legislature to protect individuals*
2 *from prosecution for other offenses, or to interfere with law*
3 *enforcement protocols to secure the scene of an overdose.*

4 SEC. 2. *Section 11376.5 is added to the Health and Safety*
5 *Code, to read:*

6 11376.5. (a) *Notwithstanding any other law, it shall not be a*
7 *crime for a person to be under the influence of, or in possession*
8 *of, or to furnish, deliver, or share a controlled substance,*
9 *controlled substance analog, alcohol, or drug paraphernalia, if*
10 *that person, in good faith, seeks medical assistance for another*
11 *person experiencing a drug- or alcohol-related overdose that is*
12 *related to the possession, furnishing, delivering, or sharing of a*
13 *controlled substance, controlled substance analog, alcohol, or*
14 *drug paraphernalia of the person seeking medical assistance.*

15 (b) *Notwithstanding any other law, it shall not be a crime for*
16 *a person who experiences a drug- or alcohol-related overdose and*
17 *who is in need of medical assistance to be under the influence of,*
18 *possess, furnish, deliver, or share a controlled substance,*
19 *controlled substance analog, alcohol, or drug paraphernalia if*
20 *the person or one or more other persons at the scene of the*
21 *overdose, in good faith, seek medical assistance for the person*
22 *experiencing the overdose.*

23 (c) *This section shall not affect laws prohibiting the selling,*
24 *providing, giving, or exchanging of drugs or alcohol for money,*
25 *goods, or services, or laws prohibiting the forcible administration*
26 *of drugs or alcohol against a person's will.*

27 SECTION 1. ~~Section 878 of the Penal Code is amended to~~
28 ~~read:~~

29 ~~878. On holding the defendant to answer or on a plea of guilty~~
30 ~~where permitted by law, the magistrate may take from each of the~~
31 ~~material witnesses examined before him or her on the part of the~~
32 ~~people a written undertaking, to the effect that the witness will~~
33 ~~appear and testify at the court to which the depositions and~~
34 ~~statements or case are to be sent, or that he or she will forfeit the~~
35 ~~sum of five hundred dollars (\$500).~~